



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

March 31, 1998

Mr. Hugh W. Davis, Jr.
Assistant City Attorney
The City of Fort Worth
1000 Throckmorton Street
Fort Worth, Texas 76102-6311

OR98-0855

Dear Mr. Davis:

You ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 114454.

The City of Fort Worth (the "city") received a request for a copy of a sworn statement given on January 12, 1998, pertaining to the city's investigation of a sexual harassment complaint. You assert that the requested statement is excepted from required public disclosure based on section 552.103 of the Government Code.

Section 552.103(a) applies to information

(1) relating to litigation of a civil or criminal nature or settlement negotiations, to which the state or a political subdivision is or may be a party or to which an officer or employee of the state or a political subdivision, as a consequence of the person's office or employment, is or may be a party; and

(2) that the attorney general or the attorney of the political subdivision has determined should be withheld from public inspection.

To secure the protection of section 552.103(a), a governmental body must demonstrate that requested information "relates" to a pending or reasonably anticipated judicial or quasi-judicial proceeding. Open Records Decision No. 588 (1991).

The city asserts that section 552.103 is applicable to the requested statement because you assert that the statement relates to reasonably anticipated litigation. You assert that the city reasonably anticipates litigation because the victim of the alleged sexual harassment has notified the city by letter that she will file a charge of discrimination with the Texas Commission of Human Rights and the Equal Employment Opportunity Commission ("EEOC"). This office has received a copy of the complaint filed with the EEOC.

We conclude that in this instance, the city has established that litigation is reasonably anticipated and that the requested information relates to that litigation. *See* Open Records Decision No. 386 (1983). Accordingly, the city may withhold the requested statements from the requestor based on section 552.103 of the Government Code.

We note that if the opposing parties in the anticipated litigation have seen or had access to any of the information in these records, there would be no justification for now withholding that information from the requestor pursuant to section 552.103(a). Open Records Decision Nos. 349 (1982), 320 (1982). In addition, the applicability of section 552.103(a) ends once the litigation has been concluded. Attorney General Opinion MW-575 (1982); Open Records Decision No. 350 (1982).

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in cursive script that reads "Kay Hastings".

Kay Hastings
Assistant Attorney General
Open Records Division

KHH/rho

Ref.: ID# 114454

Enclosures: Submitted documents